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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,099	03/31/2004	David A. Hughes	50T5474.01	5171

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EXAMINER	
SABOURI, MAZDA	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
07/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/814,099	HUGHES, DAVID A.	
	Examiner	Art Unit	
	MAZDA SABOURI	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 December 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 14-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 14-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims filed on 4/1/2008 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6 and 14-18 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

3. **As to claims 1 and 14**, there are aspect of these claims not supported by the specification

a. First, according to the specification, the input indicating a desired elapsed time (see line 7 of claim 1 and line 9 of claim 14) does not occur during the output of a master audio recording as recited in the claims. Examiner cites figure 2 and the corresponding description as evidence to this point. In figure 2, it is clear that the master recording (see step 106 of fig 2) is outputted after the selection of the desired elapsed time (see step 104 of fig 2). This figure corresponds directly to the portion of the specification cited by the applicant as support for amended claims.

b. Second, according to the specification, the input indicating a desired elapsed time (see line 7 of claim 1 and line 9 of claim 14) does not occur after ring tone start designation (see line 4 of claim 1 and line 6 of claim 14) as recited in the claims. Examiner again cites figure 2 as evidence. Figure 2 clearly shows the selection of a desired elapsed time (see step 104 of fig 2) occurring before the ring tone start designation (see step 108, fig 2).

4. To expedite prosecution, examiner will interpret claims in such a way as to be consistent with the specification.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 1-6 and 14-18** rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0018556 (Okazaki et al.) in view of US 2002/0152875 (Hughes et al.).

7. **As to claim 1**, Okazaki teaches a method of creating a ring tone file, comprising the acts of:

c. Receiving on a handset an electronic data file comprising a master audio recording (audio data received, see paragraphs 43 and 44);

d. Receiving on the handset a ring tone start designation for a first time during an output of the master audio recording (first click during audio signal reproduction, see paragraphs 47-52);

e. Creating a ring tone file from a portion of the electronic data file defined by the start designation and a stop designation (second click during audio signal reproduction, see paragraphs 47-52), the ring tone file solely comprising a temporally contiguous portion of the master audio recording (portion of audio signal between first and second clicks is registered as a ring tone, see paragraphs 50-52);

f. Making the ring tone file available for selection by a user (the registered ring tone is used as ring tone upon user selection of mode, see paragraph 62).

g. What is lacking is "receiving on the handset an input indicating a desired elapsed time, in seconds, said desired elapsed time comprising a ring tone stop designation". In a similar field of endeavor, Hughes teaches this step (user can user audio player to generate music sample. User can define sample time in seconds for creating a music sample, see Hughes, paragraphs 29, 30, 32 and 34-36). Motivation for having a defined elapsed time, in seconds, can be found in Okazaki. Okazaki teaches the need to limit the length of ring tones (a limit may be placed on the length of the music, see paragraph 52). However, the method of Okazaki provides no mechanism for the user to know exactly how long, in seconds, the generated ring tone is (while listening to the song, Okazaki teaches the user making a second click for the stop designation of the ring tone file). The teachings of Hughes help to limit the length of ring tones by allowing the user to establish a desired elapsed time, in seconds, for the generated ring tone. It would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine the teachings of Hughes into those of Okazaki, for the reasons mentioned above.

8. **As to claim 6**, Okazaki teaches a computer readable medium encoded with computer program which, when loaded into a processor, implements the method of claim 1 (CPU controls audio reproduction function, see paragraphs 32,43,44,47-52 and 62).

9. **As to claim 14**, Okazaki teaches a method of manufacturing a wireless handset, comprising the acts of:

h. Configuring the handset to receive an electronic data file comprising a master audio recording (audio data received, see paragraphs 43 and 44);

i. Configuring the handset to receive a first user input, wherein the first user input enables the user to input a ring tone start designation for a first time during an output of the master audio recording (first click during audio signal reproduction, see paragraphs 47-52);

j. Configuring the handset to create a ring tone file from a portion of the electronic data file defined by the start designation and a stop designation (second click during audio signal reproduction, see paragraphs 47-52), the ring tone file solely comprising a temporally contiguous portion of the master audio recording (portion of audio signal between first and second clicks is registered as a ring tone, see paragraphs 50-52);

k. Configuring the handset to make the ring tone file available for selection by the user (the registered ring tone is used as ring tone upon user selection of mode, see paragraph 62).

l. What is lacking is "receiving on the handset an input indicating a desired elapsed time, in seconds, said desired elapsed time comprising a ring tone stop designation". In a similar field of endeavor, Hughes teaches this step (user can user audio player to generate music sample. User can define sample time in seconds for creating a music sample, see Hughes, paragraphs 29, 30, 32 and

34-36). Motivation for having a defined elapsed time, in seconds, can be found in Okazaki. Okazaki teaches the need to limit the length of ring tones (a limit may be placed on the length of the music, see paragraph 52). However, the method of Okazaki provides no mechanism for the user to know exactly how long, in seconds, the generated ring tone is (while listening to the song, Okazaki teaches the user making a second click for the stop designation of the ring tone file). The teachings of Hughes help to limit the length of ring tones by allowing the user to establish a desired elapsed time, in seconds, for the generated ring tone. It would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine the teachings of Hughes into those of Okazaki, for the reasons mentioned above.

10. **As to claims 2 and 15**, Okazaki further teaches that the ring tone stop designation comprises an elapsed time after the ring tone start designation (see paragraph 52).

11. **As to claims 3 and 16**, Okazaki further teaches receiving the electronic data via a wireless signal (see paragraphs 43 and 44).

12. **As to claims 4,5,17 and 18**, Okazaki further teaches associating the ring tone file with an input communication source, the communication source being one of a paging system or telephone system (incoming call from telephone system) (see paragraphs 53-59).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAZDA SABOURI whose telephone number is (571)272-8892. The examiner can normally be reached on Monday-Friday from 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on 571-272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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